

### **REMARKS**

Applicant respectfully requests reconsideration of this application in view of the following remarks and the above amendments. This response is believed to fully address all issues raised in the Office Action mailed August 4, 2009. Furthermore, no new matter is believed to have been introduced hereby.

Claims 1-13 and 24-30 were previously pending. Claims 2-4, 11, and 28 have been canceled without prejudice or disclaimer.

#### **35 USC § 112 Rejection of the Claims**

Claims 4 and 11 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 4 and 11 have been canceled as detailed above. Accordingly, these rejections are moot.

#### **35 USC §§102 and 103 Rejection of the Claims**

Claims 1-3, 5-9 and 24-26 were rejected under 35 USC § 102(b) as being anticipated by Kocher et al. (U.S. Patent No. 6,298,442 B1).

Claims 4, 10-13 and 27-30 were rejected under 35 USC § 103(a) as being unpatentable over Kocher et al. (U.S. Patent No. 6,298,442 B1) in view of Curiger et al. (U.S. Patent No. 6,064,740).

Each of these rejections is respectfully traversed since the cited art, alone or in combination, fails to teach or suggest the claimed combination of features such as set forth in any of the pending claims.

More particularly, without limiting the scope of embodiments of the invention, only in an effort to impart precision to the claims (e.g., by more particularly pointing out embodiments of the invention, rather than to avoid prior art), and merely to expedite the prosecution of the present application, Applicant has amended independent claim 1 to in part recite the allowable language of claims 2-4; claim 10 to include the allowable language of claim 11, and claims 24 and 27 to include the allowable language of claim 28.

It is respectfully submitted that the cited art, alone or in combination, clearly fail to teach or even suggest the claimed combination of features such as set forth in claim 1, including for example, the claimed determination of the obscuring factor as detailed above.

The remaining independent claims recite similar (though not identical) language and have been rejected for similar reasons as claim 1. Hence, these remaining independent claims should be allowable for at least similar reasons as claim 1, as well as additional or alternative elements that are recited therein but not shown in the cited prior art.

Also, all pending dependent claims should be allowable for at least similar reasons as their respective independent claims, as well as additional or alternative elements that are recited therein but not shown in the cited prior art.

**Conclusion**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (303-800-6678) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-4238.

Respectfully submitted,

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Date 11/4/09

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